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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,040	09/29/2000	Seth Bradley Noble	BA-00464	1692

7590 03/16/2005
Robert B O'Rourke
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard Seventh Floor
Los Angeles, CA 90025-1026

EXAMINER

NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/677,040

Applicant(s)

NOBLE, SETH BRADLEY

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The indicated allowability of claims 1-57 is withdrawn in view of the newly discovered reference(s) to Miklos. Rejections based on the newly cited reference(s) follow.

Claim Objections

2. Claims 1-15 are objected to because of the following informalities:

Claim 1, line 11, it is suggested to delete "above" because "said window is bounded above" is unclear.

Claim 2, line 2, it is suggested to insert --the number of units within said window being discovered to be below said limiting number.-- because this phrase is included in the previous amendment.

Claim 7, line 2, it is suggested to insert --window-- because this word is included in the previous amendment.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

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do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Miklos (6,621,796).

Regarding claim 1, Miklos discloses a method, comprising: regulating a flow of sequentially addressed data across a network between a source node (sender) and a destination node (receiver) by limiting the number of units of the data traversing the network to a set called a window (see col. 6, lines 19-28) such that units are added to the window because their transmission by the source is desired; units are removed from the window because they have arrived; at the destination, units are removed from the window because they are declared to have been lost; the total number of units within the window is bounded above by the limiting number of units of the data traversing the network; the difference between the smallest address whose corresponding unit is contained within the window, and the largest address whose corresponding unit is contained within the window, is unbounded; and, units are allowed to be noncontiguous (see figure 1B; col. 1, lines 37-44; col. 7, line 66-col. 8, line 24; col. 8, lines 58-66; col. 10, lines 55-col. 11, line 11. Note that units S2, S7, and S8 are noncontiguous).

Regarding claims 2-8, Miklos discloses simultaneously adding an amount of units to the window upon the number of units within the window being discovered to be below the limiting number and other limitations described in claims 3-8 (see figure 1B and col. 7, line 66-col. 8, line 24).

Regarding claims 9-10, Miklos discloses the sequentially addressed data corresponds to a contiguous portion of a response requested from the source by the destination and the response is the result of an action or process carried out by the source at the request of the destination (see figure 1B).

Regarding claims 11-13, Miklos discloses units are declared to have been lost by virtue of their failure to arrive within some period of time or count of data arrival; sending a request message for one or more units which have been declared lost; and adding the requested units to the window (see figure 1B and col. 3, lines 21-26).

Regarding claim 14, Miklos discloses reducing the limiting number of units within the window as a result of the declaring of one or more units to be lost (see the window size is dynamically change during transmission in col. 11, lines 1-11).

Regarding claim 15, Miklos discloses increasing the limiting number of units within the window (see the window size is dynamically change during transmission in col. 11, lines 1-11).

Regarding claim 16, Miklos discloses a method that controls the transportation of an amount of data over a network, wherein, when the amount of data is viewed as being contiguous, such that a next piece of the amount of data is adjacent to a piece of the amount of data from the perspective of the piece of the amount of data, a window that is viewed as being superimposed upon the amount of data defines a specific portion of the amount data based upon a size of the window and a positioning of the window, the method comprising: allowing non contiguous portions of the amount of data (see figure 1B where S2, S7, and S8 are noncontiguous) to be in transit over the network such that: a first portion of the amount of data that is allowed to be in transit within the network can be viewed as being defined by a first window, a second portion of

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the amount of data that is allowed to be in transit within the network can be viewed as being defined by a second window, wherein the first and second windows can be viewed as being superimposed upon the amount of data such that a third portion of the amount of data that is not in transit within the network exists between the first window and the second window, the second portion having a next piece of the amount of data from the perspective of a piece of the amount of data that is within the third portion; and wherein. 1) if: the next piece from the perspective of the piece within the third portion arrives at its destination causing the third portion to expand; 2) then: a next piece of the amount data from the perspective of the second portion is allowed to be in transit within the network causing the second window to slide (see figure 1B; col. 1, lines 37-44; col. 7, line 66-col. 8, line 24; col. 8, lines 58-66; col. 10, lines 55-col. 11, line 11).

Regarding claims 17-22, Miklos discloses all of the amount of data is to be transported from a server (sender) to a client (receiver) over the network and other limitations as described in claims 18-24 (see figure 1B; col. 1, lines 37-44; col. 7, line 66-col. 8, line 24; col. 8, lines 58-66; col. 10, lines 55-col. 11, line 11).

Regarding claims 23-25, Miklos discloses at least a piece of the amount of data within the first portion is no longer deemed in transit within the network because of the expiration of a timer and the measurement by the timer having exceeded a value results in the declaration that the next piece of the amount of data has been lost (see NACK S2 in figure 1B).

Regarding claim 26, Miklos discloses a method, comprising: a) sending a message onto a network from a client (receiver) to a server (sender) that requests a portion of an amount of data from the server wherein the total amount of the amount of data that is: 1) requested by the client from the server through one or more messages and 2) not received by the client is within a limit

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that controls how much of the amount of data is in transit on the network, the limit being maintained by the client and, b) starting a timer at the client that times how long it takes for any piece of the portion to be received at the client, and c) sending a second message from the client to the server for another portion of the amount of data, the sending a second message in response to a reception of at least a piece of the portion, the reception occurring no later than an expiration of the timer (see figure 1B; col. 1, lines 37-44; col. 7, line 66-col. 8, line 24; col. 8, lines 58-66; col. 10, lines 55-col. 11, line 11).

Regarding claims 27-29, Miklos discloses tracking of data units in the network and the amount of data transmitting in the network is limited by window size and the source and destination capacities that are corresponding to the limitations described in claims 27-29 (see col. 10, line 55-col. 11, line 11).

Regarding claim 30, Miklos discloses a method, comprising: tracking a plurality of portions of an amount of data over the course of a transaction in which the amount of data is eventually transported from a server (sender) to a client (receiver), the plurality of portions being tracked by the client consistent with the following set of characteristics: 1) those one or more portions that have been received from the server before the expiration of its timer. 2) those one or more portions for whom a requesting message has been sent onto the network from the client to the server and whose timer has not yet expired. 3) those one or more portions that are neither characteristic 1) or characteristic 2) wherein when the amount of data is viewed as being contiguous, such that a next piece of the amount of data is adjacent to a piece of the amount of data from the perspective of the piece of the amount of data, a first portion having characteristic

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1) is between a second and third portions having characteristic 2) (see figure 1B; col. 1, lines 37-44; col. 7, line 66-col. 8, line 24; col. 8, lines 58-66; col. 10, lines 55-col. 11, line 11).

Regarding claim 31, Miklos discloses re-characterizing a specific portion of the amount of data from characteristic 2) to characteristic 1) as a result of the specific portion being received at the client, the specific portion being received prior to the expiration of its timer (see ACK S1, S3 in figure 1B).

Regarding claims 32-35, Miklos discloses re-characterizing a specific portion of the amount of data from characteristic 2) to characteristic 3) as a result of the specific portion not having been received at the client after the expiration of its timer and other limitations described in claims 33-34 (see lost S2 is re-requested in figure 1B).

Regarding claims 36-41, Miklos discloses wherein the characteristic 3) is further resolved into the following characteristics: 3a) those of the portions for whom a requesting message has been sent onto the network from the client to the server and whose timer has expired, but, who are not yet permitted to have another requesting message sent from the client to the server. 3b) those of the portions for whom a requesting message may be sent onto the network from the client to the server and other limitations described in claims 37-41 (see figure 1B where the receiver keep track of what units have been received or not received and well as submit a retransmission request for lost units).

Regarding claims 42-45, claims 42-45 are machine-readable medium claims that have substantially the same limitations as the respective method claims 26-29. Therefore, they are subject to the same rejection.

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Regarding claims 46-57, claims 46-57 are machine-readable medium claims that have substantially the same limitations as the respective method claims 30-41. Therefore, they are subject to the same rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brown et al (6,434,147), Aoki et al (6,757,255), Sridhar et al (6,324,582), Sabaa et al (6,389,016).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN NGUYEN
PRIMARY EXAMINER

3/7/05